

Environmental Protection Agency

§ 35.4066

availability of funds for the Superfund program.

§ 35.4055 Ineligible activities.

The following activities are ineligible for assistance under this program:

(a) Litigation or underwriting legal actions such as paying for attorney fees or paying for the time of the Technical Advisor to assist an attorney in preparing a legal action or preparing for and serving as an expert witness at any legal proceeding regarding or affecting the site;

(b) Political activity and lobbying in accordance with OMB Circular A-122;

(c) Other activities inconsistent with the cost principles stated in OMB Circular A-122, "Cost Principles for Non-Profit Organizations";

(d) Tuition or other expenses for recipient group members or Technical Advisors to attend training, seminars or courses, except for required Health and Safety training for the Technical Advisor to allow access to the local Superfund site, provided written permission is obtained in advance from the Regional EPA Office. Training may be approved for one time only at an amount not to exceed \$1,000.00;

(e) Any activities or expenditures for recipient group members' travel;

(f) Generation of new primary data such as well drilling and testing, including split sampling;

(g) Reopening final Agency decisions such as the Records of Decision or conducting disputes with the Agency in accordance with its dispute resolution procedures set forth at 40 CFR part 30, subpart L; and

(h) Epidemiological or health studies, such as blood or urine testing.

§ 35.4060 Eligible activities.

TAGs may be used to obtain technical assistance in interpreting information with regard to the nature of the hazard, remedial investigation and feasibility study, record of decision, remedial design, selection and construction of remedial action, operation and maintenance, or a significant removal action at a facility that is listed on the NPL or proposed for listing and at which a response action has begun. TAGs shall be used to fund activities that will contribute to the public's

ability to participate in the decision-making process by improving the public's understanding of overall conditions and activities.

§ 35.4065 Technical advisor's qualifications.

(a) A Technical Advisor must possess the following credentials:

(1) Demonstrated knowledge of hazardous or toxic waste issues;

(2) Academic training in a relevant discipline (e.g., biochemistry, toxicology, environmental sciences, engineering); and

(3) Ability to translate technical information into terms understandable to lay persons.

(b) A Technical Advisor should possess the following credentials:

(1) Experience working on hazardous or toxic waste problems;

(2) Experience in making technical presentations;

(3) Demonstrated writing skills; and

(4) Previous experience working with affected individuals or community groups or other groups of individuals.

§ 35.4066 Procurement.

(a) *Competition.* (1) The recipient must provide maximum open and free competition.

(2) Recipients must not unduly restrict or eliminate competition.

(3) The individual(s) developing the specifications will be excluded from competition for the Technical Advisor and/or Grant Administrator position.

(b) *Documentation.* Recipients must document all procurement activities with written records that furnish reasons for decisions.

(c) *Cost.* (1) The recipient must determine that all costs are reasonable.

(2) The recipient must conduct a cost analysis of all contracts over \$25,000 and all change orders regardless of dollar value.

(d) *Debarment.* Recipients and contractors must not make any contract at any time to anyone who is on the "List of Parties Excluded from Federal Procurement or Nonprocurement Programs."

(e) *Recipient responsibility.* (1) The recipient is responsible for the settlement and satisfactory completion of all contractual and administrative